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# राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, रविवार, 31 अगस्त, 1958/9 भाद्रपद, 1880

HIMACHAL PRADESH ADMINISTRATION

REVENUE & EXCISE DEPARTMENT

NOTIFICATION

*Simla-4, the 31st August, 1958/9th Bhadra, 1880 Saka*

No. Ex. 9-86/58.—Notification No. 8/3/57-Judl. II, dated the 30th August, 1958, issued by the Government of India, Ministry of Home Affairs, extending the East Punjab General Sales Tax Act, 1948 (East Punjab Act 46 of 1948), to the Union Territory of Himachal Pradesh, already published in the Gazette of India, Part II, Section 3 (ii), is hereby republished for the information of general public, together with the said Act.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

NOTIFICATION

*New Delhi, the 30th August, 1958/8th Bhadra, 1880 Saka*

No. 8/3/57-Judl. II.—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extends to the Union Territory of Himachal Pradesh the East Punjab General

Sales Tax Act, 1948 (East Punjab Act 46 of 1948), as at present in force in the State of Punjab, subject to the following modifications, namely:—

1. Throughout the Act, except in sections 1, 14-A(3), 25 and 26,
  - (a) for the words "State Government" or "Government", the word "Lieutenant-Governor" shall be substituted;
  - (b) for the words "Punjab", "the Punjab", "the State" or "the State of Punjab", the words "Himachal Pradesh" shall be substituted;
  - (c) for the words "High Court", the words "Court of the Judicial Commissioner" shall be substituted.
2. In the long title, the words and figures "and for the repeal of the Punjab General Sales Tax Act, 1941" shall be omitted.
3. In section 1, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—
  - "(2) It extends to the whole of Himachal Pradesh.
  - (3) It shall come into force at once."
4. In section 2—
  - (a) clause (c) shall be omitted;
  - (b) for clause (d), the following clause shall be substituted, namely:—
 

"(d) 'dealer' means any person who carries on the business of buying or selling goods and includes a Government which carries on such business;"
  - (c) in clause (e), after the words "actionable claims", the word "news-papers", shall be inserted;
  - (d) after clause (e), the following clauses shall be inserted, namely:—
    - "(e1) 'Himachal Pradesh' means the Union Territory of Himachal Pradesh;
    - (e2) 'Lieutenant-Governor' means the Lieutenant-Governor of Himachal Pradesh;
    - (e3) 'Notification' means a Notification in the Official Gazette;"
  - (e) for clause (h), the following clause shall be substituted, namely:—
 

"(h) 'Sale', with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment, or for any other valuable consideration and includes a transfer of goods on the hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods;"
  - (f) in clause (i)—
    - (1) sub-clause (i), the brackets and figures "(i)" at the commencement, the words "or a dealer engaged in the execution of a contract" and the word "and" at the end shall be omitted;
    - (2) clause (ii) shall be omitted.
5. In section 3, in sub-section (1), for the word "it", the words "the Lieutenant-Governor" shall be substituted.

6. In section 4—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“4(1) With effect from such date (hereinafter in this section referred to as the appointed date) as the Lieutenant-Governor may, by Notification appoint, being not earlier than thirty days after the date of the said Notification, every dealer whose gross turnover or purchases during the year immediately preceding the commencement of this Act exceeded the taxable quantum, shall be liable to pay tax under this Act on all sales effected on or after the appointed date.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5). In this Act, the expression ‘taxable quantum’ means—

(a) in relation to any dealer who brings the goods specified in Schedule ‘A’ appended to this Act for sale or use in the manufacturing or processing of goods for sale in Himachal Pradesh Nil;

(b) in relation to a Co-operative Society Twenty thousand rupees;

(c) in relation to any other dealer .. Seven thousand rupees”.

7. In section 5,

(a) in sub-section (1), for the first proviso, the following proviso shall be substituted, namely:—

“Provided that a tax at such rate not exceeding eight naya paise in a rupee as may be so notified, may be levied on the sale of goods as specified in Schedule ‘A’ appended to this Act from such date as the Lieutenant-Governor may, by Notification, direct. The Lieutenant-Governor, after giving by Notification such previous notice as he considers reasonable of his intention so to do, may by Notification add to or delete from this Schedule, and thereupon the Schedule shall be deemed to have been amended accordingly.”;

(b) in sub-section (2), in sub-clause (ii) of clause (a), the words “or in the execution of any contract” shall be omitted.

8. In section 6, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Lieutenant-Governor after giving by Notification such previous notice as he considers reasonable of his intention so to do, may by Notification add to or delete from Schedule ‘B’, and thereupon Schedule ‘B’ shall be deemed to have been amended accordingly.”.

9. In section 8, in sub-section (1), for the figures “15,000”, the words “five thousand” shall be substituted.

10. In section 14-A, in sub-section (2), the words, figures and letters “before the 10th day of May, 1953, attended before any assessing or other sales tax authorities in connection with any proceeding under this Act or under the Punjab General Sales Tax Act, 1941, on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee, or who ” shall be omitted.

11. In sections 25 and 26, for the words "of the State Government" wherever they occur, the words "serving in connection with the affairs of Himachal Pradesh" shall be substituted.
12. In section 27—
  - (a) in sub-section (1), the words, "subject to the condition of previous publication," shall be omitted.
  - (b) in sub-section (2), clause (c) shall be omitted.
13. Sections 27A, 27B, 28 and 29 shall be omitted; and after section 27, the following section shall be inserted, namely:—
 

**"28. Tax not leviable in certain cases.**—Notwithstanding anything contained in this Act, a tax on the sale or purchase of goods shall not be imposed under this Act—

  - (i) where such sale or purchase takes place outside Himachal Pradesh; or
  - (ii) where such sale or purchase takes place in the course of the import of the goods into, or export of the goods out of, the territory of India; or
  - (iii) where such sale or purchase takes place in the course of inter-State trade or commerce."
14. In section 30, sub-section (3) shall be omitted.

#### ANNEXURE

#### THE EAST PUNJAB GENERAL SALES TAX ACT, 1948, AS EXTENDED TO THE UNION TERRITORY OF HIMACHAL PRADESH

(East Punjab Act No. XLVI of 1948)

*Received the assent of His Excellency the Governor of East Punjab on the 15th of November, 1948, and was first published for general information in the Government Gazette, Extraordinary, dated the 20th November, 1948.*

AN

ACT

*to provide for the levy of a general tax on the sale or purchase of goods in Himachal Pradesh.*

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the East Punjab General Sales Tax Act, 1948.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall come into force at once.
2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—
  - (a) "assessing authority" means any person authorised by the Lieutenant-Governor to make any assessment under this Act;
  - (b) "Commissioner" means the Excise and Taxation Commissioner appointed

under sub-section (1) of section 3;

- \* \* \* \*
- (d) "dealer" means any person who carries on the business of buying or selling goods and includes a Government which carries on such business;
- (e) "goods" means all kinds of movable property other than actionable claims, newspapers, stocks, shares or securities, and includes all materials, articles or common property;
- \* \* \* \*
- (e1) "Himachal Pradesh" means the Union Territory of Himachal Pradesh;
- (e2) "Lieutenant-Governor" means the Lieutenant-Governor of Himachal Pradesh;
- (e3) "Notification" means a Notification in the Official Gazette;
- \* \* \* \*
- (f) "prescribed" means prescribed by rules made under this Act;
- (ff) 'purchase', with all its grammatical or cognate expressions, means the acquisition of goods other than sugar-cane, foodgrains and pulses for use in the manufacture of goods for sale for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge;
- Provided that nothing in this definition shall apply in relation to a dealer who exercises his option under sub-clause (i) of clause (i) or to section 14 or to clause (d) of sub-section (1) of section 23;
- (g) "registered" means registered under this Act;
- (h) 'sale', with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment, or for any other valuable consideration and includes a transfer of goods on the hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods;
- (i) "turnover" includes—

The aggregate of the amounts of sales and purchases and parts of sales and purchases actually made by any dealer during the given period less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof other than the cost of installation when such cost is separately charged; or, in the case of a dealer, other than a manufacturer, producer or processor and at his option exercised in the manner and subject to such terms and conditions as may be prescribed the aggregate of the purchase price including four *per centum* as incidental charges on account of freight, octroi, insurance, customs duty, handling charges and any other similar taxes or charges payable by the dealer, plus seven-and-a-half *per centum* of such aggregate price of the goods purchased; provided that the stock in hand of a dealer at the time of his giving his option shall not be so included;

*Explanation.*—(1) The proceeds of any sale made outside Himachal Pradesh by a dealer, who carries on business both inside and outside Himachal Pradesh shall not be included in the turnover.

*Explanation.*—(2) The turnover of any dealer in respect of transactions of forward contracts, in which goods are actually not delivered, shall

not be included in the turnover.

(j) "year" means the financial year.

(k) "import" means the bringing of goods into Himachal Pradesh from any place outside its limits.

**3. Taxing authorities.**—(1) For carrying out the purposes of this Act, the Lieutenant-Governor, may appoint a person to be Excise and Taxation Commissioner, and such other persons to assist him as the Lieutenant-Governor thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

**4. Incidence of taxation.**—(1) With effect from such date (hereinafter in this section referred to as the appointed date) as the Lieutenant-Governor may, by Notification appoint, being not earlier than thirty days after the date of the said Notification, every dealer whose gross turnover or purchases during the year immediately preceding the commencement of this Act exceeded the taxable quantum, shall be liable to pay tax under this Act on all sales effected on or after the appointed date.

(2) Every dealer, to whom sub-section (1) does not apply, or who does not deal exclusively in goods declared to be tax-free under section 6, shall be liable to pay tax under this Act on the expiry of 30 days after the date on which his gross turnover first exceeds the taxable quantum:

Provided that in the case of a dealer who imports any goods for sale or use in manufacturing or processing, or who manufactures or processes any goods for sale, the liability to pay tax shall commence with effect from the date on which his gross turnover first exceeds the taxable quantum.

(3) Every dealer, who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.

(4) Every dealer, whose liability to pay tax has ceased under the provisions of sub-section (3) shall again be liable to pay tax under this Act with effect from the date on which his gross turnover first exceeds the taxable quantum.

(5) In this Act, the expression "taxable quantum" means—

(a) in relation to any dealer who brings the goods specified in Schedule 'A' appended to this Act for sale or use in the manufacturing or processing of goods for sale in Himachal Pradesh

Nil;

(b) in relation to a Co-operative Society .. Twenty thousand rupees;

(c) in relation to any other dealer .. Seven thousand rupees.

**5. Rate of tax.**—(1) Subject to the provisions of this Act, there shall be levied on the taxable turnover every year of a dealer a tax at such rates not exceeding four naya paise in a rupee as the Lieutenant-Governor may by Notification direct:

Provided that a tax at such rate not exceeding eight naya paise in a rupee,

as may be so notified, may be levied on the sale of goods as specified in Schedule 'A' appended to this Act from such date as the Lieutenant-Governor may, by Notification, direct. The Lieutenant-Governor, after giving by Notification such previous notice as he considers reasonable of his intention so to do, may by Notification add to or delete from this Schedule, and thereupon the Schedule shall be deemed to have been amended accordingly:

Provided further that Lieutenant-Governor may by Notification in the Official Gazette declare that in respect of any goods or class of goods the dealer may pay such lump sum by way of composition of the tax payable under this Act, as the Lieutenant-Governor may notify from time to time.

(2) In this Act the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom—

(a) his turnover during that period on—

- (i) the sale of goods declared tax-free under section 6;
- (ii) sales to a registered dealer of goods declared by him in a prescribed form as being intended for resale or of goods specified in his certificate-of-registration for use by him in the manufacture of any goods for sale and on sales to a registered dealer of containers or other materials for the packing of such goods:

Provided that in the case of such sales a declaration duly filled up and signed by the registered dealer to whom the goods are sold and containing prescribed particulars on a prescribed form is furnished by the dealer who sells the goods.

\* \* \* \*

- (iv) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910 (No. IX of 1910), of goods for use by it in the generation or distribution of such energy;
- (v) sales of goods which are shown to the satisfaction of the assessing authority to have been despatched by, or on behalf of, the dealer to an addressee outside Himachal Pradesh;
- (vi) such other sales as may be prescribed; and
- (b) the *per centum* of the balance equivalent to the rate *per centum* of the tax remaining after making the deductions allowed by sub-clauses (i) to (vi) of clause (a):

Provided that such deduction shall not be admissible in respect of purchases as defined in clause (ff) of section 2.

**6. Tax-free goods.**—(1) No tax shall be payable under this Act on the sale of goods specified in the first column of Schedule 'B', subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax-free from time to time under this section.

(2) The Lieutenant-Governor after giving by Notification such previous notice as he considers reasonable of his intention so to do, may by Notification add to or delete from Schedule 'B' and thereupon Schedule 'B' shall be deemed to have been amended accordingly.

**7. Registration of dealers.**—(1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate.



(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority.

(3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fees as may be prescribed, register the applicant and grant him a certificate-of-registration in the prescribed form which may specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (2) of section 5.

(4) The Commissioner may from time to time amend or cancel any certificate-of-registration in accordance with information furnished under section 16 or otherwise received.

(5) When any dealer has been convicted or has paid composition money under section 24 in respect of any contravention of sub-section (1) of this section, the Commissioner shall register such dealer and grant him a certificate-of-registration, and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.

(6) When:—

(a) any business in respect of which a certificate has been granted upon application made under sub-section (2) has been discontinued or transferred, or

(b) the gross turnover of any such business has during each of three consecutive years failed to exceed the taxable quantum,

the Commissioner shall cancel the registration and the cancellation shall come into force after the expiry of such period as may be prescribed.

**8. Voluntary registration.**—(1) Any dealer except one dealing exclusively in goods declared tax-free under section 6 whose gross turnover during a year exceeds five thousand rupees may notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) The provisions of sub-sections (3) and (4) and clause (a) of sub-section (6) of section 7 shall apply in respect of applications for registration under this section.

(3) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.

(4) The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(5) Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate-of-registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

**9. List of registered dealers to be published.**—The Commissioner shall, as soon as may be after the commencement of this Act, publish in such manner as he deems fit a list of the names and addresses of registered dealers together with a description of the goods covered by their certificates-of-registration. and



thereafter shall in like manner from time to time publish—

- (a) such particulars of any dealer who is subsequently registered or whose registration is cancelled, as soon as may be after such registration or cancellation, and
- (b) annually a consolidated list of modifications of the first list published under this section and copies of such lists and subsequent amendments, if any, shall be available in the office of the assessing authority for public information and sale by the Controller of Printing and Stationery, Himachal Pradesh, at such price as may be fixed by Lieutenant-Governor.

**10. Payment of tax and returns.**—(1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer, in lieu of the amount of the general tax payable during any period, a lump sum by way of composition determined in the prescribed manner.

(3) Such dealers as may be required so to do by the assessing authority by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed:

Provided that, if any dealer establishes to the satisfaction of the assessing authority that his average taxable turnover does not exceed ten *per centum* of his average gross turnover, the returns to be furnished by such dealer under this sub-section shall be annual returns.

(4) Before any registered dealer furnishes the returns required by sub-section (2), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(5) If any dealer discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount.

**11. Assessment of tax.**—(1) If the assessing authority is satisfied without requiring the presence of registered dealer of the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(2) If the assessing authority is not satisfied without requiring the presence of a registered dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him on a date and at place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns.

(3) On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing such evidence as the dealer may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of tax due from the dealer.

(4) If a registered dealer, having furnished returns in respect of a period,

fails to comply with the terms of a notice issued under sub-section (2), the assessing authority shall within three years after the expiry of such period, proceed to assess to the best of his judgment the amount of the tax due from the dealer.

(5) If a registered dealer does not furnish returns in respect of any period by the prescribed date, the assessing authority shall within three years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess to the best of his judgment, the amount of tax, if any, due from the dealer.

(6) If upon information which has come into his possession, the assessing authority is satisfied that any dealer has been liable to pay tax under this Act in respect of any period but has failed to apply for registration, the assessing authority shall, within three years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration, the assessing authority may direct that the dealer shall pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one-and-a-half times that amount.

(7) The amount of tax—

- (a) due where the returns are furnished without receipt showing full payment thereof, or
- (b) assessed under sub-sections (1), (3), (4) and (5) less the sum, if any, already paid by the dealer in respect of the said period, or
- (c) assessed under sub-section (6) together with the penalty directed to be paid under that sub-section,

shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the assessing authority for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice:

Provided that the assessing authority may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty; if any, by instalments.

(8) The amount of tax and penalty imposed which remains unpaid, after the date specified in the said notice shall be recoverable as arrears of land revenue.

(9) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence under this Act.

**11-A.** (1) If in consequence of definite information which has come into his possession, the assessing authority discovers that the turnover of the business of a dealer has been under-assessed, or escaped assessment in any year, the assessing authority may, at any time within three years following the close of the year for which the turnover is proposed to be reassessed, and after giving the dealer a reasonable opportunity, in the prescribed manner of being heard, proceed to reassess the tax payable on the turnover which has been under-assessed or has escaped assessment.

(2) An assessing authority or any such authority as may be prescribed, may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

**12. Refunds.**—The assessing authority shall, in the prescribed manner, refund to a registered dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by a refund voucher, or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any other period.

**13. Accounts.**—(1) Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (3) of section 10, shall keep a true account of the value of goods bought and sold by him, and if the assessing authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section he may require such dealer by notice in writing to keep such accounts including records of sales as he may, subject to anything that may be prescribed in that behalf in writing direct.

(2) Without prejudice to the generality of the provisions of sub-section (1), every registered dealer shall, when called upon to do so by an assessing authority by a notice in writing, issue a bill or cash memorandum signed and dated by him or his servant, manager or agent to the purchaser in respect of the goods sold or supplied by him, showing the particulars of the goods and the price at which they are sold or supplied and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three from such date.

**14. Production and inspection of accounts and documents.**—(1) The assessing authority or an officer authorised in writing by the assessing authority may subject to such conditions as may be prescribed require any dealer to produce before him any accounts or documents or to furnish any information relating to the stocks of goods of, or purchases, sales and deliveries of goods by the dealer as may be necessary for the purposes of this Act. In case of default the assessing authority may draw such inference against the dealer as the assessing authority may deem fit.

(2) All accounts, registers and documents relating to the stocks of goods of, or purchase, sale and deliveries of goods by any dealer, and all goods kept in any place of business or ware-house, of any dealer shall at all reasonable times be open to inspection by the assessing authority and that authority may countersign any or all of such accounts, registers and documents.

(3) For the purposes of sub-section (2), the assessing authority may enter any place of business or ware-house of any dealer.

Provided that these powers shall not be exercisable by an officer below the rank of an Excise and Taxation Officer.

**14-A.** (1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by the assessee, or a lawyer or accountant or income-tax practitioner and not being disqualified by or under sub-section (3).

(2) In this section an 'income-tax practitioner' means any person, who has passed any accountancy examination recognised in this behalf, by the Central Board of Revenue, or holds a degree in Commerce, Law, Economics or Banking including auditing conferred by any Indian University, incorporated by any law for the time being in force, Rangoon University, English and Welsh Universities.

(3) No person, who has been dismissed from Government service, shall be qualified to represent any dealer under sub-section (1).

(4) If any practitioner or other person who represents an assessee, is found guilty of misconduct in any proceedings before any authority under this Act by the Commissioner, the Commissioner may direct that he shall be disqualified to represent a dealer under sub-section (1):

Provided that no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard.

(5) Any person against whom any direction as aforesaid is made by the Commissioner, can within thirty days of the making of such a direction, appeal to the Financial Commissioner, to have the direction cancelled.

**14-B.** (1) The Lieutenant-Governor may, by Notification in the Official Gazette, set up check-posts and erect barriers at any place in the State to prevent evasion of the tax due under this Act in such manner as may be prescribed.

(2) At any check-post or barrier referred to in sub-section (1), and on demand by a person authorised by the Lieutenant-Governor in this behalf, every person transporting any goods in any manner whatsoever either into or out of Himachal Pradesh, shall stop, and shall produce before such officer a bill of lading in triplicate, in such form as may be prescribed, giving details of the goods carried, their ownership, their consignor and consignee, and shall also allow such officer to inspect such goods, without breaking open the packing, if any.

(3) Any person guilty of any default or refusal in connection with any of the requirements of sub-section (2) shall be deemed to have committed an offence, which on conviction, shall be punishable with imprisonment for a term not exceeding one month or with fine not exceeding one thousand rupees or double the amount of tax due whichever is greater, or with both.

**15. Delegation of powers.**—Subject to such restrictions and conditions as may be prescribed the Commissioner may by order in writing delegate any of his powers under this Act, except those under sub-section (1) of section 21 to any person appointed under section (3) to assist him.

**16. Information to be furnished regarding change of business.**—If any dealer to whom the provisions of sub-section (3) of section 10 apply—

- (a) sells or otherwise disposes of his business or any place of business, or
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business, or
- (d) wants to make any change in the class or classes of goods specified in his certificate-of-registration for use in the manufacture of any goods for sale or in the execution of any contract,

he shall within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall in like manner inform the said authority.

**17. Tax payable by transferee of business.**—When the ownership of the business of a registered dealer is transferred, any tax payable in respect of such business remaining unpaid at the time of the transfer shall be payable

by the transferee as if he was the registered dealer; and the transferee shall within 30 days of the transfer apply for registration under section 7.

**17-A. Liability to tax on stocks in certain cases.**—When a certificate-of-registration is cancelled under sub-section (6) of section 7, sub-section (5) of section 8 or any other provisions in any case other than that of a dissolution of a firm or entire transfer of the business of a dealer the dealer shall be liable to pay tax on his stock of goods remaining unsold at the time of cancellation of the certificate.

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**19. Bar of certain proceedings.**—Save as is provided in section 21, no assessment made and no order passed under this Act, or the rules made thereunder by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any Civil Court, and save as is provided in section 20, no appeal or application for revision shall lie against any such assessment or order.

**20. Appeal.**—(1) Any dealer aggrieved by any notice issued under sub-section (7) of section 11 or by any order passed by the assessing authority under this Act, may, in the prescribed manner appeal to the prescribed authority, within sixty days from the date of receiving such notice or order:

Provided that no appeal shall be entertained by such authority unless he is satisfied that the amount of tax assessed on the dealer has been paid:

Provided further that such authority if he is satisfied that a dealer is unable to pay the tax assessed, may, for reasons to be recorded in writing, entertain an appeal without the tax having been paid:

(2) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders in relation thereto as he may think fit.

**21. Revision.**—(1) The Commissioner may, of his own motion or of application made to him, call for the record of any proceedings which are pending before, or have been disposed of by, any assessing or appellate authority appointed under this Act, for the purpose of satisfying himself as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto as he may think fit.

(2) The Lieutenant-Governor may, by Notification, confer upon any officer the powers of the Commissioner under sub-section (1), to be exercised subject to such conditions, and in respect of such areas as may be specified in the Notification.

(2-a) The Commissioner may, after giving notice to the parties concerned, review his own order.

(3) The Financial Commissioner may, at any time, call for the record of any case decided under the preceding sub-sections and if, in his opinion, the final order contains an erroneous decision on an important question of law he may pass such order on the case as he may think fit.

(4) No order shall be made under this section, which adversely affects the rights of an assessee or other person upon whom an obligation is imposed by or under this Act, without giving such assessee or other person a reasonable opportunity of being heard.

**22. Statement of case to Court of the Judicial Commissioner.**—(1) Within 60 days from the passing of an order under section 21 by the Financial

Commissioner affecting any liability of any dealer to pay tax under this Act, such dealer may, by application in writing accompanied by a fee of one hundred rupees, require the Financial Commissioner to refer to the Court of the Judicial Commissioner any question of law arising out of such order.

(2) If for reasons to be recorded in writing, the Financial Commissioner refuses to make such reference, the applicant may, within 30 days of such refusal either—

(a) withdraw his application (and if he does so, the fee paid shall be refunded), or

(b) apply to the Court of the Judicial Commissioner against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-clause (2), the Court of the Judicial Commissioner is not satisfied of the correctness of the Financial Commissioner's decision, it may require the Financial Commissioner to state the case and refer it, and on the receipt of such requisition, the Financial Commissioner shall state and refer the case accordingly.

(4) If the Court of the Judicial Commissioner is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Financial Commissioner to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The Court of the Judicial Commissioner upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Financial Commissioner a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Financial Commissioner shall dispose of the case accordingly.

(6) Where a reference is made to the Court of the Judicial Commissioner under this section, the cost (including the disposal of the fee) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Financial Commissioner, in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 12.

### 23. Offences and penalties.—(1) Whoever—

(a) carries on business as a dealer in contravention of sub-section (1) of section 7; or

(b) fails, without sufficient cause to submit any return as required by sub-section (3) of section 10 or submits a false return; or

(c) being a registered dealer, falsely represents when purchasing any class of goods, for manufacture, that goods of such class are covered by his certificate-of-registration; or

(d) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or

(e) fails, when required so to do under section 13, to keep accounts or records as directed or to issue bills or cash-memoranda and keep their counterfoils as directed; or

(f) refuses to comply with any requirement made of him under section 14; or

(g) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or

(h) neglects to furnish any information required by section 16;

(i) charges tax on the sale of goods declared tax-free under section 6;

shall be punishable with fine not exceeding one thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner on a complaint in writing by the assessing authority and no Court inferior to that of a Magistrate of the 1st Class shall try any such offence.

**24. Compounding of offences.**—(1) Subject to such conditions as may be prescribed the Commissioner may accept from any person charged with an offence under section 14-B or sub-section (1) of section 23 or under any rules made under this Act, either before or after the commencement of any proceeding against such person in respect of such offence, by way of composition of the offence, a sum not exceeding one thousand rupees or where the offence charged is under section 14-B or clause (a) or clause (b) of sub-section (1) of section 23 a sum not exceeding double the amount of tax, which would have been payable by the dealer had he complied with the provisions of this Act, whichever is greater.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1) the accused person shall be discharged and no further proceedings shall be taken against him in respect of the same offence and if any proceedings are pending, such proceedings shall be withdrawn.

**25. Indemnity.**—No suit, prosecution or other legal proceedings shall lie against any officer or servant serving in connection with the affairs of Himachal Pradesh for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

**26.** (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid be entitled to require any officer serving in connection with the affairs of Himachal Pradesh to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any officer serving in connection with the affairs of Himachal Pradesh discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, document or evidence, or for the purposes of a prosecution under this Act, or for departmental use of the officials of the Income-Tax Department of the



Government of India or Government Departments of other sister States of the Union of India.

**27. Power to make rules.**—(1) The Lieutenant-Governor may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the proportion referred to in sub-clause (ii) of clause (i) of section 2;
- (b) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4;
- (c) the particulars to be contained in a declaration under sub-clause (ii) of clause (a) of sub-section (2) of section 5; the form of such declaration; and the manner in which such declaration is to be furnished;
- (d) the other sales, turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 5;
- (e) the authority to which applications for registration under section 7 or section 8 shall be made;
- (f) the procedure for the payment of fees in respect of, and other matters incidental to, the registration of dealers and the granting of certificates-of-registration, and the form of such certificate under section 7 or section 8;
- (g) the intervals at which the conditions subject to which a lump sum by way of composition may be accepted by the Commissioner from any dealer, the manner in which such lump sum is to be determined and the manner in which the tax under this Act shall be payable under section 10;
- (h) the returns to be furnished under sub-section (3) of section 10, and dates by which, and the authority to which, such returns shall be furnished;
- (i) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 11;
- (j) the manner in which refunds under section 12 shall be made;
- (k) the condition, if any, for issue of direction under section 13;
- (l) the condition under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 14;
- (m) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 15;
- (n) the authority to which information shall be furnished under section 16;
- (o) the manner in which appeals against assessment may be preferred under section 20;
- (p) the procedure for and other matters (including fees) incidental to, the disposal of appeals and applications for revisions under sections 20 and 21;
- (q) the condition under which offences may be compounded under section 24;

(r) the manner in which and the time within which, applications shall be made, information furnished, and notices served, under this Act.

(3) In making any rule the Lieutenant-Governor may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

**28. Tax not leviable in certain cases.**—Notwithstanding anything contained in this Act, a tax on the sale or purchase of goods shall not be imposed under this Act—

- (i) where such sale or purchase takes place outside Himachal Pradesh; or
- (ii) where such sale or purchase takes place in the course of the import of the goods into, or export of the goods out of, the territory of India; or
- (iii) where such sale or purchase takes place in the course of inter-State trade or commerce.

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**30. Power to exempt.**—(1) The Lieutenant-Governor, if satisfied that it is necessary or expedient so to do in the interest of cottage industries, may by Notification exempt any class of Co-operative Societies or persons from the payment of tax under this Act on the purchase or sale of any goods subject to such conditions as may be specified in such Notification.

(2) Where a Notification under sub-section (1) has been issued by the Lieutenant-Governor—

- (a) a registered dealer shall not be entitled to charge tax on the sales made to such societies or persons; and
- (b) such sales shall not be included in the taxable turnover of such registered dealer notwithstanding anything to the contrary contained in sub-section (2) of section 5.

## SCHEDULE 'A'

[See Section 5 (1)]

### LIST OF LUXURY GOODS

1. Motor vehicles, including chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles.
2. Motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor scooters, motorettes.
3. Refrigerators and air conditioning plants and component parts thereof.
4. Wireless reception instruments and apparatus, radios and radio-gramophones, electrical valves, accumulators, amplifiers and loud speakers and spare parts and accessories thereof.
5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment; lenses, films and parts and accessories required for use therewith.
6. Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use

therewith.

7. All clocks, time pieces and watches and parts thereof.
8. Iron and steel safes and *almirahs*.
9. All arms including rifles, revolvers, pistols, and ammunition for the same.
10. Cigarette cases and lighters.
11. Dictaphone and other similar apparatus for recording sound and spare parts thereof.
12. Sound transmitting equipment including telephones and loud speakers and spare parts thereof.
13. Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.
14. Binoculars, telescopes and opera glasses.
15. Gramophones and component parts thereof and records.

### SCHEDULE 'B'

(See Section 6)

1 to 14.	*	*	*	*
15. Husk of all foodgrains and pulses				—
16. Vegetables				Except when sold in tins, bottles or cartons.
17. Milk				Except condensed and dried milk.
18. Meat, fish and eggs				Except when sold in tins, bottles or cartons.
19. Fresh fruits				—
20. Common salt				Except when sold in sealed containers.
21. Flowers				—
21-A. <i>Pan</i> and betelnuts				—
22. Books				—
23. Newspapers and periodicals				—
24. Exercise and drawing books				—
25. Writing slates and slate pencils				—
26. Writing chalks and crayons				—
27. Foot-rules of the type usually used in schools.				—
28—29.	*	*	*	*
30. Cloth woven on handlooms out of hand-spun yarn.				When sold by persons dealing exclusively in such cloth.
31. Electric energy				—
32. Motor spirit as defined in Punjab Motor Spirit (Taxation of Sales) Act, 1939.				—

33.	*	*	*	*
34. Agriculture implements				—
35. Spinning wheel ( <i>Charkha</i> ) and its parts				—
36. All goods sold to the Indian Red Cross Society and St. John Ambulance Association.				—
37. All goods on which duty is or may be levied under the Punjab Excise Act, 1914, or the Opium Act, 1878.				—
38. Sale of canteen stores run by the Canteen Stores Department of the Government of India.				When made direct or through the authorised canteen contractors/Unit run canteens to military personnel.
39. Agricultural or horticultural produce sold by a person or a member of his family, grown by himself or grown on any land in which he has an interest whether as owner or usufructuary mortgagee tenant or otherwise.				—
40. Judicial and non-judicial stamps, Entertainment Duty stamps, Passengers and Goods Tax stamps and standard water-marked petition papers.				—
41. Matches				—
42—43.	*	*	*	*
44. Fertilizers				—
45. Kerosene oil				—
46. Hand-spun yarn				When sold by one who deals in hand-spun yarn exclusively.
47—48.	*	*	*	*
48-A. Crudely tanned leather called half-tanned leather usually tanned by villagers in villages (other than that tanned in factory).				—
49. Indian food preparations ordinarily prepared by <i>Tandoorwalas</i> , <i>Lohwalas</i> and <i>Dhabas</i> .				When sold by persons running <i>Tandoors</i> , <i>Lohs</i> and <i>Dhabas</i> exclusively.
50. Articles ordinarily prepared by <i>Halwais</i>				When sold by <i>Halwais</i> exclusively.
51. Manufactured tobacco as defined in the Punjab Tobacco Vend Fee Act, 1954.				—
52. Artificial hearing aids and their accessories.				—
53. Vegetable seeds and saplings				—

